

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

RONALD PHIPPS,

Plaintiff

v.

9:10-CV-1588 (TJM/DEP)

**DR. SOHAIL A. GILLANI and THE STATE
OF NEW YORK,**

Defendants.

**THOMAS J. McAVOY,
Senior United States District Judge**

DECISION & ORDER

I. INTRODUCTION

This *pro se* action brought pursuant to 42 U.S.C. § 1983 was referred to the Hon. David E. Peebles, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). No objections to Magistrate Judge Peebles's January 5, 2012 Report and Recommendation¹ have been filed, and the time to do so has expired. Furthermore, after examining the record, this Court has determined that the Report and Recommendation is not subject to attack for plain error or manifest injustice.

¹The Report Recommendation is dated January 5, 2011 but was docketed on January 5, 2012. See dkt. # 28. The Court presumes that the year typed on the document was the result of a typographical error.

II. CONCLUSION

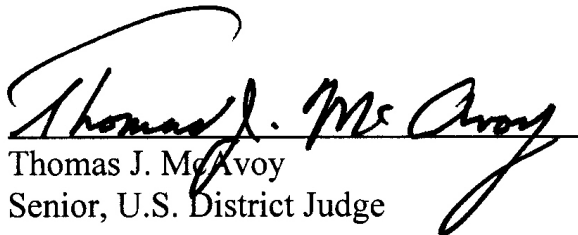
The Court **ADOPTS** the Report and Recommendation [dkt. # 28] for the reasons stated therein. Therefore, it is hereby

ORDERED that the motion of Defendant State of New York to dismiss Plaintiff's claims in this action against that defendant (Dkt. No. 23) is **GRANTED**, and all claims against the State of New York are **DISMISSED**; and it is further

ORDERED that the motion of Defendant Dr. Sohail Gillani to dismiss Plaintiff's claims against him in this action (Dkt. No. 16) is **DENIED** without prejudice to Defendant's right to raise a defense of qualified immunity in the future.

IT IS SO ORDERED

Dated: January 30, 2012


Thomas J. McAvoy
Senior, U.S. District Judge